Enhancing Competition Awareness in DoD

Required training for all in the contracting career field. Recommended training for all involved in the acquisition process to provide a fundamental understanding of competition and resulting benefits

Note: This briefing can be tailored as appropriate and includes hyperlinks for trainer/trainee to utilize for more in depth information on particular areas of interest

Benefits of Competition

- Drives cost savings
- Improves quality of product/service
- Enhances solutions and the industrial base
- Promotes fairness and openness leading to public trust
- Prevents waste, fraud, and abuse, because contractors know they must perform at a high level or else be replaced
- Healthy competition is the lifeblood of commerce – it increases the likelihood of efficiencies and innovations

"Antitrust laws in general, and the Sherman Act in particular, are the Magna Carta of free enterprise. They are as important to the preservation of economic freedom and our free enterprise system as the Bill of Rights is to the protection of our fundamental personal freedoms. And the freedom guaranteed each and every business, no matter how small, is the freedom to compete—to assert with vigor, imagination, devotion, and ingenuity whatever economic muscle it can muster."

- Justice Thurgood Marshall - United States v. Topco Assocs., Inc., 405 U.S. 596,619 (1972)

Key Drivers of Competition

- It's the law!
  - Competition isn't an alternative, it is required!
  - Other than full and open competition is the exception, not the rule!
  - Fair opportunity is required for orders against multiple award contracts, unless an exception is approved
- High visibility continues
  - President - 4 March 2009 Memo on Government Contracting
  - Congress - Ongoing Legislation through National Defense Authorization Acts (NDAAs)
  - GAO, OFPP, OSD, DoDIG, and other Audit Agencies
    - GAO found Federal agencies did not always provide a fair opportunity for contractors to receive contracts under multiple award contracts
    - DoDIG found that DoD did not always provide fair opportunity to contractors and inappropriate use of statutory exceptions to fair opportunity
- OMB Policy
  - Enhancing Competition in Federal Acquisition, 31 May 07
  - Effective Practices for Enhancing Competition, 18 Jul 08

Ensure that value and competition are foremost considerations in every program - AT&L Guiding Principle

Objectives Of Competition Training

- Enhance awareness and understanding of the importance of competition in the acquisition process
- Provide fundamental understanding of competition and it's benefits
- Promote awareness of competition initiatives

"It is the policy of the Federal Government that executive agencies shall not engage in noncompetitive contracts except in those circumstances where their use can be fully justified and where appropriate safeguards have been put in place to protect the taxpayer."

President Barack Obama
March 4, 2009
Memorandum for the Heads of Executive Departments and Agencies

Training Topics

- Stakeholders
- Keys To Effective Competition
- The Foundation of Competition
- Competition Initiatives
- Barriers to Competition
- Competition Successes
- Summary
- Resources
- Appendices

We, as government employees, have a responsibility to the American public as custodians of their interests to do what is in their best interest

Stakeholders

- Multi-functional team (Responsible for maximizing competition)
  - Requiring Office
  - Program Manager
  - Contracting Officer
  - Others as appropriate
- Buying Activity Competition Advocates
  - Promote competition and commercial practices
  - Participate in acquisition strategy planning
  - Develop the annual competition plan for the activity

"I asked agencies to reinvigorate the role of the competition advocate and maximize the meaningful use of competition. Competition is the cornerstone of our acquisition system and is a critical tool for achieving the best return on investment possible for our taxpayers. I commend you for the steps you are taking to strengthen competition practices in Federal acquisition. We need to do more to promote the appropriate use of tools and effective practices to improve and increase the use of competition."

Paul A. Denett
Administrator
Office of Federal Procurement Policy
Office of Management and Budget

Keys To Effective Competition

Keys to Effective Competition
1.Market Research
2.Developing/Describing Agency Requirements

- Market Research
  - Strategic (Surveillance focus) – gain general knowledge and sense of the market; gather and analyze data on a continual basis
  - Tactical (Investigative focus) – tailored & detailed investigation of the market aimed at specific procurement action
- Developing/Describing Agency Requirements
  - Understanding and properly assessing the maturity level of a requirement is the key to getting started with Market Research

"The natural price, or the price of free competition … is the lowest which can be taken… (It) is the lowest which the sellers can commonly afford to take, and at the same time continue their business."

"In every profession, the exertion of the greater part of those who exercise it, is always in proportion to the necessity they are under of making that exertion…and, where competition is free, the rivalship of competitiors, who are all endeavouring to justle one another out of employment, obliges every man to endeavour to execute his work with a certain degree of exactness."

- Adam Smith, The Wealth of Nations (1776), Book I, Chapter VII
(Note: The above was a direct quote and the misspellings are a product of

Keys to Effective Competition Market Research - Objective

Keys to Effective Competition
1.Market Research
2.Developing/Describing Agency Requirements

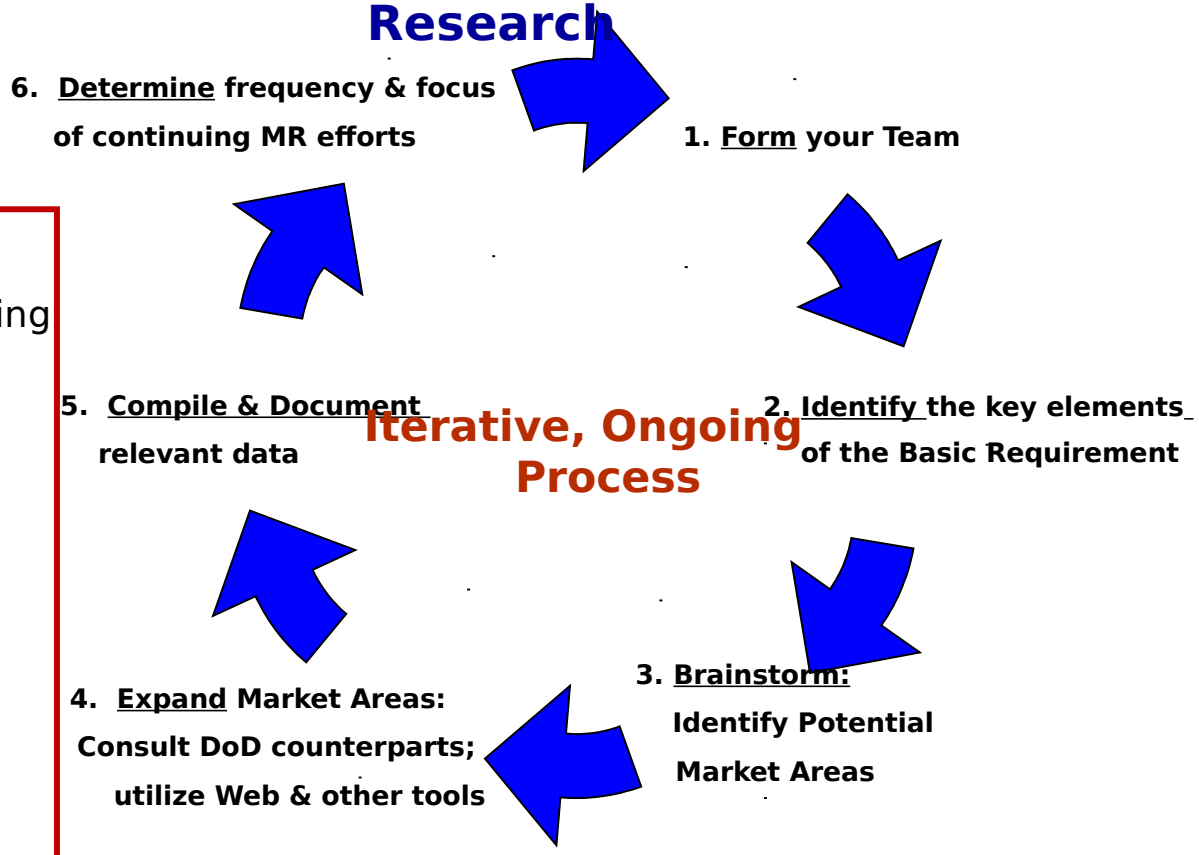
- Accurately gather information from relevant sources in and outside the organization to support
  - Identifying commercial product/service that meet minimum requirements, and mission needs
  - Expand insight into commercial market place
- Use results to determine:
  - If capable sources exist
  - Availability of commercial and/or non-developmental items
- Arrive at most suitable approach to acquiring supplies and services
  - Identify legitimate needs
- Market research is <u>not</u> just:
  - Posting a draft on *FedBizOps*
  - A sources sought synopsis
  - Someone else's market research report

Goal: Increase Competition to Promote Best Value

Keys to Effective Competition: Market Research - Strategic Focus

Keys to Effective Competition
1.Market Research
2.Developing/Describing Agency Requirements

Strategic Market Research


1. Form your Team
2. Identify the key elements of the Basic Requirement
3. Brainstorm: Identify Potential Market Areas
4. Expand Market Areas: Consult DoD counterparts; utilize Web & other tools
5. Compile & Document relevant data
6. Determine frequency & focus of continuing MR efforts
Iterative, Ongoing Process

Strategic Focus - Key Tenets:

- "Long Term View" aimed at gaining a sense of the market (surveillance)
- Team participation is key
  - Requiring Activity
  - Program Manager
  - Contracting Officer
  - User/Customer
  - Others, as appropriate
- Supports trade-off decisions between alternatives
- Lays the foundation for more focused market investigation -Tactical Market Research

Keys to Effective Competition: Market Research – Tactical Focus

Keys to Effective Competition
1.Market Research
2.Developing/Describing Agency Requirements

Tactical Focus - Key Tenets:

- Tailored & detailed "Market Investigation" aimed at a specific procurement action
- Timing, depth, extent of investigation depends on the complexity of the action.
- Team participation is still the key to success
  - Requiring Activity
  - Program Manager
  - Contracting Officer
  - User/Customer
  - Others, as appropriate
- Good data collection effort is paramount

Keys to Effective Competition Agency Requirements

Keys to Effective Competition
1.Market Research
2.Developing/Describing Agency Requirements

- Acquisition begins with a description of the Government's needs stated in terms sufficient to begin market research effort
- Using market research to refine agency requirements
  - State in terms of Function, Performance Required, Essential Physical Characteristics
  - Think in Terms of Outcomes Required
  - Avoid Detailed Designs
  - Look to Commercial Items and Non-developmental Items
  - Look to Commercial Standards
- Solicit Industry Comments, as appropriate

Co-Dependents: Developing Requirements and Conducting Market Research

The Foundation of Competition

- The Competition in Contracting Act (CICA) of 1984, as implemented in the Federal Acquisition Regulation (FAR) Part 6 and Department of Defense FAR Supplement (DFARS) Part 206, sets a standard of competition for Federal contracts
  - Sends the clear message to industry and Federal procurement personnel that, in buying goods and services, the Government will obtain them through competition

- Types of contract competition
  - Competition for actions using Simplified Acquisition Procedures
  - Full and open competition
  - Full and open competition after exclusion of sources
  - Other than full and open competition

"When awarding Government contracts, the Federal Government must strive for an open and competitive process. However, executive agencies must have the flexibility to tailor contracts to carry out their missions and achieve the policy goals of the Government. In certain exigent circumstances, agencies may need to consider whether a competitive process will not accomplish the agency's mission. In such cases, the agency must ensure that the risks associated with noncompetitive contracts are minimized."

President Barack Obama

(Excerpt from Memorandum dated March 4, 2009)

Competition for Actions Using Simplified Acquisition Procedures

The Foundation of Competition
1.Simplified Acquisition Procedures
2.Full and Open Competition
3.Full and Open competition after exclusion of sources
4.Other than full and open competition

- Policy: The contracting officer must promote competition to the maximum extent practicable
- Acquisitions exceeding $3000 and not exceeding $100,000 are reserved exclusively for small business and shall be set-aside (see FAR 19 for procedures and exceptions)
- Soliciting from a single source:
  - For actions below the Simplified Acquisition Threshold – contracting officers must document their determination that the circumstances of the contract deem only one source reasonably available
  - For actions under the Commercial Item Test Program (FAR 13.5) – contracting officers must prepare a sole source justification using the format at 6.303-2 and obtain approval in accordance

"A horse never runs so fast as when he has other horses to catch up and outpace"

- John F. Kennedy (Thirty-fifth President)

Full & Open Competition

The Foundation of Competition
1.Simplified Acquisition Procedures
2.Full and Open Competition
3.Full and Open competition after exclusion of sources
4.Other than full and open competition

- Policy: Except for certain limitations, Contracting Officers shall promote and provide for full and open competition in soliciting offers and awarding Government contracts
  - Through use of competitive procedure(s) that are best suited to the contract action; and
  - Consistent with the need to fulfill the Government's requirements efficiently

- Competitive Procedures Available:
  - Sealed Bids
  - Competitive Proposals
  - Combination of Competitive procedures (e.g. two-step sealed bidding)
  - Other Competitive Procedures

See Appendix A for Full and Open Procedures

Full And Open Competition After Exclusion Of Sources

The Foundation of Competition
1.Simplified Acquisition Procedures
2.Full and Open Competition
3.Full and Open competition after exclusion of sources
4.Other than full and open competition

- Policies:
  - FAR 6.2 provides procedures for full and open competition after excluding one or more sources
  - FAR 19.201 addresses Government's policy to provide maximum practicable opportunities for small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns
- Appropriate when:
  - Establishing or maintaining alternate sources
  - Setting aside contracts
    - Small business (SB) concerns
    - HUBZone SB concerns
    - Service-Disabled Veteran-Owned SB concerns
    - Section 8(a) competition
    - Local firms during a major disaster or emergency

See Appendix B for Exclusion of Sources Procedures

Other Than Full & Open Competition

The Foundation of Competition
1.Simplified Acquisition Procedures
2.Full and Open Competition
3.Full and Open competition after exclusion of sources
4.Other than full and open competition

- Policy: 10 U.S.C. 2304(c) authorizes under certain conditions contracting without providing for full and open competition
- Authorized when one of the following exceptions is documented and approved:
  - Only One Responsible Source (or Limited Sources)
  - Unusual and Compelling Urgency
  - Industrial Mobilization; Engineering, Developmental, or Research Capability; or Expert Services
  - International Agreement
  - Authorized or Required by Statute
  - National Security
  - Public Interest

See Appendix C for Other Than Full & Open Competition Procedures

Competition Initiatives

Competition Initiatives
1. American Recovery and Reinvestment Act of 2009
2. Federal Supply Schedules
3. Multiple Award Contracts
4. Federal Prison Industries
5. Posting J&As on *FedBizOps*
6. Prototyping and Competition
7. FPDS Reporting Procedures

- American Recovery and Reinvestment Act ***FAR Rules 31 Mar 2009 and DPAP Memos of 19 Aug 2009, 21 Apr 2009 and 13 Mar 2009***
- Federal Supply Schedules (FSS) ***DPAP Memo 16 Jul 2008***
- Multiple Award Contracts (MACs) ***FAR Rule 17 Sep 2008 and DPAP Memos of 23 May 2008 and 16 Jul 2008***
- Federal Prison Industries (FPI) ***DFARS Rule 12 Aug 2008 and DPAP Memos of 28 Mar 2008 and 3 Jun 2009***
- Posting J&As on *FedBizOps* ***FAR Rule 15 Jan 2009***
- Prototyping and Competition ***OSD(AT&L) Memo 19 Sep 2007***
- FPDS Reporting Procedures ***DPAP Memo of 26 Jul 2007 –***

"The ability to learn faster than your competitors may be the only sustainable competitive advantage" Arie de Geus

Competition Initiatives
American Recovery and Reinvestment Act of 2009

Competition Initiatives
1. **American Recovery and Reinvestment Act of 2009**
2. Federal Supply Schedules
3. Multiple Award Contracts
4. Federal Prison Industries
5. Posting J&As on *FedBizOps*
6. Prototyping and Competition
7. FPDS Reporting Procedures

- American Recovery and Reinvestment Act of 2009, Public Law 111-5, February 17, 2009
  - Section 1554. Special Contracting Provisions. To the maximum extent possible, contracts funded under this Act shall be awarded as fixed-price contracts through the use of competitive procedures. A summary of any contract awarded with such funds that is not fixed-price and not awarded using competitive procedures shall be posted in a special section of the website established in section 1526
- Office of Management and Budget Memos of 18 February 2009 and 3 April 2009 provide implementing guidance
- FAR revised on 31 March 2009
- AT&L/DPAP memo of 13 March states: "…my expectations are that every effort shall be made to award competitive, fixed-price actions and accurately report these actions in the FPDS."

Competition Initiatives
American Recovery and Reinvestment Act of 2009

Competition Initiatives
1. **American Recovery and Reinvestment Act of 2009**
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3. Multiple Award Contracts
4. Federal Prison Industries
5. Posting J&As on *FedBizOps*
6. Prototyping and Competition
7. FPDS Reporting Procedures

- Sources sought synopsis, presolicitation and award notices must be posted on FedBizOpps for all Recovery Act contracts, modifications and orders that exceed the thresholds at FAR Part 5
  - Include RECOVERY as the first word in the title
- Presolicitation notices for modification and orders
  - Applies to all contract modifications (to include funding modifications) and orders against FSS, GWACs, Multi-Agency Contracts, any other indefinite-delivery contract authorized in FAR 16.5, Blanket Purchase Agreements, or Blanket Ordering Agreements
  - Are informational only and must include the required statement in the Description field in accordance with DPAP instructions.
  - Are required to be posted individually, they may not be posted under an umbrella notice for the base contract or ordering vehicle

Follow the instructions in the latest DPAP memo

Competition Initiatives
American Recovery and Reinvestment Act of 2009

Competition Initiatives
1. **American Recovery and Reinvestment Act of 2009**
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6. Prototyping and Competition
7. FPDS Reporting Procedures

- Regardless of dollar value, if the contract, mod or order, is not both fixed-price & competitively awarded, publicize the award notice and include in the Description field the rationale for using other than a fixed-priced and/or competitive approach
  - Do not include any proprietary information or information that would compromise national security
  - J&As for non-competitive contracts are posted at FedBizOpps within 14 days of award (30 days if authority is FAR 6.302-2 “Unusual /compelling urgency”)
- Competitively awarded includes:
  - Contract or modification awarded using competitive simplified acquisition procedures, full and open competition, or competition short of full and open
  - Orders issued under single award task or delivery order contracts that were competitively awarded
  - Orders issued under multiple award contracts where fair opportunity is given for the award (in accordance with FAR and DFARS) to all multiple award contract holders
- Accurately report action in FPDS and enter the Treasury Account Symbol at the first entry in the “Description of Requirement” field, when appropriate

Follow the instructions in the latest DPAP memo

Competition Initiatives – Federal Supply Schedule (FSS)

Competition Initiatives
1. American Recovery and Reinvestment Act of 2009
2. **Federal Supply Schedules**
3. Multiple Award Contracts
4. Federal Prison Industries
5. Posting J&As on *FedBizOps*
6. Prototyping and Competition
7. FPDS Reporting Procedures

- FAR 8.4 outlines procedures for providing for competition in the placement of orders less than $100,000 under FSS contracts
- DFARS and PGI 208.405-70 outlines procedures for providing for competition in the placement of orders greater than $100,000
- Fair Opportunity applies to all FSS orders
  - An ordering activity must justify its action when restricting competition for an order
  - If competition (fair opportunity) is not provided, then an exception must be approved at the same level as an exemption to full and open competition
- See DAU Continuous Learning Module (CLC 030) “Essentials of Interagency Acquisition” for more on fair opportunity

See Appendix D for FSS Procedures

Competition Initiatives – Multiple Award Contracts (MAC)

Competition Initiatives
1. American Recovery and Reinvestment Act of 2009
2. Federal Supply Schedules
3. **Multiple Award Contracts**
4. Federal Prison Industries
5. Posting J&As on *FedBizOps*
6. Prototyping and Competition
7. FPDS Reporting Procedures

- FAR 16.504 establishes a preference for making multiple awards of indefinite-delivery indefinite-quantity (IDIQ) contracts
- Section 843 of the NDAA for FY 2008:
  - Requires Head of Agency written determination of <u>any</u> task or delivery order contract (IDIQ or requirements) in an amount estimated to exceed $100 million (including all options) to be awarded to a single source
    - Unless delegated in accordance with agency procedures
- Provide a copy of the determination to DPAP/CPIC
- The requirement for a determination for a single award contract greater than $100 million applies in addition to the requirements of FAR subpart 6.3 “Other than Full and Open Competition,” when applicable

See Appendix E for Single Award Determination

Competition Initiatives – MACS Orders under FAR 16.5

Competition Initiatives
1. American Recovery and Reinvestment Act of 2009
2. Federal Supply Schedules
3. **Multiple Award Contracts**
4. Federal Prison Industries
5. Posting J&As on *FedBizOps*
6. Prototyping and Competition
7. FPDS Reporting Procedures

- Guidance on competition (i.e., fair opportunity) for orders under MACs is found at FAR 16.5 and DFARS 16.505-70
- Pricing Orders. If the contract did not establish the price for the supply or service, the contracting officer must establish prices for each order using the policies and methods in FAR 15.4 (FAR 16.505(b)(3))
- All multiple award contract holders must be provided a fair opportunity to compete for each order over $3,000, unless an exception to fair opportunity is documented
  - FAR fair opportunity procedures apply to orders over $3,000 but not exceeding $100,000
  - DFARS fair opportunity procedures apply to orders over $100,000 and exceptions to fair opportunity require approval at the same levels as a J&A for a contract

See Appendix F for Procedures for Orders under MACs

Competition Initiatives – MACS Orders under FAR 16.5 (cont.)

Competition Initiatives
1. American Recovery and Reinvestment Act of 2009
2. Federal Supply Schedules
3. **Multiple Award Contracts**
4. Federal Prison Industries
5. Posting J&As on *FedBizOps*
6. Prototyping and Competition
7. FPDS Reporting Procedures

Section 843 of the NDAA for FY 2008 established additional procedures:

- For orders exceeding $5 million
  - The requirement to provide all awardees a fair opportunity to be considered for each order shall include, at a minimum—
    - A notice of the task or delivery order that includes a clear statement of the agency's requirements;
    - A reasonable response period;
    - Disclosure of the significant factors and subfactors, including cost or price, that the agency expects to consider in evaluating proposals, and their relative importance;
    - Where award is made on a best value basis, a written statement documenting the basis for award and the relative importance of quality and price or cost factors; and
    - An opportunity for a postaward debriefing
  - The contracting officer shall notify unsuccessful awardees and provide postaward debriefings when requested
    - A summary of the debriefing shall be included in the task or delivery order file
- Provides contractors the opportunity to protest task or delivery orders in excess of $10 million
  - In addition to the authority to protest an order on the grounds that the order increases the scope, period, or maximum value of the contract under which the order is placed

See Appendix F for Procedures for Orders under MACs

Competition Initiatives – Orders Under MACs (including FSS)

Competition Initiatives
1. American Recovery and Reinvestment Act of 2009
2. Federal Supply Schedules
3. **Multiple Award Contracts**
4. Federal Prison Industries
5. Posting J&As on *FedBizOps*
6. Prototyping and Competition
7. FPDS Reporting Procedures

- Competition Advocates must report on extent of competition provided in the placement of orders against multiple award contracts (to include under FSS contracts)
- Reviews of documentation for exceptions to fair opportunity is part of execution reviews/procurement management reviews
- (Note) Section 863 of the National Defense Authorization Act for FY 2009 extended competition standards for orders against multiple award contracts, previously applicable to DoD, government-wide
  - A FAR change is in process to implement the law.
  - Will apply to orders that exceed the Simplified Acquisition Threshold (SAT)
  - Will also require justifications for orders that exceed the SAT and do not provide for competition to be posted to FedBizOpps

"Competition is easier to accept if you realize it is not an act of oppression or abrasion – I've worked with my best friends in direct competition " -- Diane Sawyer

Competition Initiatives – Federal Prison Industries (FPI)

Competition Initiatives
1. American Recovery and Reinvestment Act of 2009
2. Federal Supply Schedules
3. Multiple Award Contracts
4. **Federal Prison Industries**
5. Posting J&As on *FedBizOps*
6. Prototyping and Competition
7. FPDS Reporting Procedures

- Section 827 of the NDAA for FY 2008 changed procedures to require competition for purchases for which FPI has a significant share (>5%) of the DoD market for product categories
- DPAP maintains a listing of such product categories, specified by Federal Supply Class (FSC)
- Current listing was provided by DPAP memo of 3 Jun 2009 and can be found on the DPAP website at: http://www.acq.osd.mil/dpap/cpic/cp/specific_policy_areas.html#federal_prison

See Appendix G for FPI Procedures

Competition Initiatives – Posting J&As on FedBizOpps

Competition Initiatives
1. American Recovery and Reinvestment Act of 2009
2. Federal Supply Schedules
3. Multiple Award Contracts
4. Federal Prison Industries
5. **Posting J&As on *FedBizOps***
6. Prototyping and Competition
7. FPDS Reporting Procedures

- Sec 844 of the FY 2008 NDAA requires agencies to post J&As to FedBizOpps within 14 days after contract award
  - A contract awarded pursuant to 10 U.S.C. 2404(c)(2) Unusual and Compelling Urgency shall be posted within 30 days after contract award
- J&As for brand name descriptions (FAR 6.302-1(c)) shall be posted to *FedBizOps* with the solicitation (FAR 5.102(a)(6))
- Justifications shall be carefully screened for Contractor proprietary data
  - Contracting officers shall be guided by the exemptions to disclosure of information contained in the Freedom of Information Act and the prohibitions against disclosure

"Competition is not only the basis of protection to the consumer, but is the incentive to progress" -- Herbert Hoover

Competition Initiatives – Prototyping and Competition

Competition Initiatives
1. American Recovery and Reinvestment Act of 2009
2. Federal Supply Schedules
3. Multiple Award Contracts
4. Federal Prison Industries
5. Posting J&As on *FedBizOps*
6. **Prototyping and Competition**
7. FPDS Reporting Procedures

- Military Services and Defense Agencies will formulate pending and future programs with acquisition strategies and funding that provide for two or more competing teams producing prototypes through Milestone B
  - Benefits include:
    - Reduce technical risk
    - Validate designs
    - Validate cost estimates
    - Evaluate manufacturing processes
    - Refine requirements

- Required for all acquisition strategies requiring OSD(AT&L) approval
  - DoD policy to utilize this acquisition strategy for all appropriate programs below ACAT I

"Government and industry teams must work together to demonstrate the key knowledge elements that can inform future development and budget decisions"

-- Mr. John Young OSD(AT&L)

Competition Initiatives – FPDS Reporting

Competition Initiatives
1. American Recovery and Reinvestment Act of 2009
2. Federal Supply Schedules
3. Multiple Award Contracts
4. Federal Prison Industries
5. Posting J&As on *FedBizOps*
6. Prototyping and Competition
7. **FPDS Reporting Procedures**

- Accurately coding the Contract Action Report and reporting the award to the Federal Procurement Data System (FPDS) is critical
  - Information reported to congress
  - Official source of data for management
  - Auditing agencies reviewing the data
- Guidance for competition related fields included in Attachment 2 of DPAP memo dated 26 Jul 2007
- FPDS changes in process – expected in early 2010
- It is critical that a multiple award contract is identified as such in FPDS
  - Fair opportunity is addressed for each order placed under a multiple award contract (to include Federal Supply Schedules)

See Appendix H for FPDS Reporting Procedures and expected changes

Barriers to Competition

- Impediments across components
  - Unique/critical mission or technical requirements
  - Industry move toward consolidation
  - Urgent requirements in support of war operations
  - Congressional adds or earmarks
  - Proprietary data rights developed at private expense
  - Insufficient technical data packages
  - Contracting personnel shortages and increased workload
  - Time Restraints

"Competition is a process or variety of habitual behavior that grows out of a habit of mind"

-- Willard Beecher

Competition Successes - DoD

- DoD conducted over 2000 competitions using A-76 process
  - As a result of competition, annual operating costs were reduced by 31 percent (cumulative savings of $1.5 billion a year)
  - Savings achieved highlight the potential benefits of opening up even more of our support activities to competition

Competition Yields Significant Savings

	Competitions Completed	Average Annual Savings($M)	Percent Savings
Army	510	$470	27%
Air Force	733	$560	36%
Marine Corps	39	$23	34%
Navy	806	$411	30%
Defense Agencies	50	$13	28%
Total	2138	$1478	31%

Results of A-76 Cost Comparison: 1978-1994

Competition: Delivering Best Value

Competition Successes - DoD

- Other Examples
  - V-22 Support Equipment
    - Competition facilitated first time breakout between prime contractor and a fabricator – Award made to small business (estimated savings of $4.7M)
  - Navy ship repair support in Guam
    - Competitive multiple-award IDIQ contract resulted in savings over performance period of approximately 36-41%
  - Consolidated Interim Single Channel Handheld Radio
    - Integrated product team developed acquisition strategy to compete among fully qualified vendors resulting in MAC – First award resulted in a total savings of $105M
  - Army Tank-automotive & Armaments Command (TACOM)
    - Saved an estimated $31 million from the last contract price for heavy truck tires using an acq strategy that maximized competition
  - Air Force Joint Threat Emitter sustainment strategy
    - Successfully procured a technical data package that converted a $70M sole source to a competitive acquisition
  - DLA VHS Antenna
    - Introduced competition for a sole source VHF antenna, resulting in a unit cost reduction of 22% and total savings of $37 million

"Battle is the most magnificent competition in which a human being can indulge. It brings out all that is best; it removes all that is base" --General George Patton

Summary

- Competition is the rule not the exception!
- Market research is the key
- Justification is required when competition is not practicable
- Design an acquisition strategy that supports competition
- Full and Open Competition provides all responsible sources an opportunity to compete. It is the standard for contracts, unless other contracting procedures are expressly authorized by statute
- Fair Opportunity (i.e., competition) is the standard for orders issued under the Federal Supply Schedule program or under a multiple award indefinite-delivery indefinite-quantity contract
- Understand the procedures/authorities at FAR 6.3 (Other Than Full and Open competition) and FAR/DFARS 8.4 and 16.5 (MACs)
- Correct coding and reporting of the contract action in FPDS is critical!

"An organizations ability to learn, and translate that learning into action rapidly, is the ultimate competitive advantage -- Jack Welch

Resources

- Defense Acquisition University Continuous Learning Module CLC 004 “Market Research”
  - This 3 hour on-line learning module is intended for everyone, including contracting officers, contract specialists, program managers, system engineers, logistics personnel, and requirements personnel who have responsibility for performing market research
  - Access it at: **http://www.dau.mil/**
- Competition Related Information on DPAP web site at:

  http://www.acq.osd.mil/dpap/cpic/cp/competition.html
- FPDS Competition Report for Buying Activity/Component
  - Under standard reports at: https://www.fpds.gov
  - Ad hoc report capability on fair opportunity

See Appendix I for Market Research Resources

Resources

- DAU teaches competition (https://learn.dau.mil/html/clc/Clc.jsp?BrowseCertCourses)
  - ACQ 101: Discusses CICA requirements
  - ACQ 201A: Touches on competition as part of the RFP and Source Selection process
  - CON 100: Discussed in Lesson 13 under factors for initiating a new contract and the contracting process mission support planning
  - CON 110: Touches on market research, socio-economic, and competition
  - CON 120: Uses integrative case study approach to evaluate competition
  - CON 214: Touches on competition as part of source selection
  - CON 215: Emphasizes application of effective source selection procedures
  - CON 218: Includes focus on strategic approaches for enhancing competition
  - CON 353: Competition part of "hot topics"
  - PMT 250: Contract module provides overview of source selection process
  - PMT 352B: Touches on competition in contract types seminar and evaluation exercises
  - CLC 007: Covers formal source selection procedures in depth
  - CLC 011: Discusses the basics of competition concerns in the contracting environment
  - CLC 030: Addresses fair opportunity requirements for orders under MACs

"Competition is the whetstone of talent" - Traditional Proverb

Appendix Table of Contents

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Appendix A – Full and Open

Full and Open Competition

- Full and Open Competition
  - 10 U.S.C. 2304, contracting officers shall promote and provide for full and open competition in soliciting offers and awarding Government contracts, with certain limitations
  - Even if full and open competition is not practicable, the CO is required to solicit offers from as many potential sources as practicable under the circumstances and prepare a justification for other than full and open competition
  - An approved J&A does not authorize the rejection of proposals from other offerors

- Competition is the rule - not the exception!!!!

BACK

Appendix B – Exclusion of Sources

Full & Open Competition after Exclusion of Sources

- FAR 6.2 provides policy and procedures for providing for full and open competition after excluding one or more sources
- Specifically when:
  - Establishing or maintaining alternate sources
  - Setting aside contracts for small business (SB) concerns, HUBZone SB concerns, Service-Disabled Veteran-Owned SB concerns, or conducting an 8(a) competition
  - Setting aside contracts for local firms during a major disaster or emergency
  - A Determination and Finding (D&F) is required to exclude one or more sources to establish or maintain alternate sources
  - No D&F is required to limit competition for socio-economic concerns because these competitive procedures are authorized by statute

BACK

Appendix C - Other Than Full and Open

Other Than Full and Open Competition

- 10 U.S.C. 2304(c) provides for seven exceptions to full and open competition
  - Reference specific authority
  - Maximum competition practicable is still expected
- Shall not be justified on the basis of
  - A lack of advance planning by the requiring activity
  - Concerns related to the amount of funds available
- Approval authorities
  - Under $550K local approval
  - $550K-11.5M Command Competition Advocate
  - $11.5M-78.5M PEO or HCA or designee (if meets criteria at FAR 6.304(a)(3) (must be General Officer or SES))
  - Over $78.5M, Senior Procurement Executive (SPE)

BACK

Exemptions to Full and Open Competition

- 10 USC 2304(c)(1) Only One Responsible Source (or Limited Sources)
  - Guidance located at FAR 6.302-1 and DFARS 206.302-1
  - Applies when only one responsible source available, or a limited number of sources can satisfy the requirement
  - Appropriate when impediments are known to exist
    - Even if more than one potential source exists
  - Example: A follow-on contract is planned for highly specialized services, award to any other source would result in the duplication of costs or unacceptable delays
  - Key points for justification
    - Ability to validate assumptions regarding the specified sources unique capabilities
    - Identify all sources that expressed interest in the requirement, and details regarding the evaluation of their capabilities
    - Thoroughly describe unique capabilities or qualifications that form basis of the justification
    - If absence of required data or limited rights data involved: Document the actions taken to obtain missing data or to validate, challenge or otherwise remove the impediment

Exemptions (cont'd)

- 10 U.S.C. 2304(c)(2) Unusual and Compelling Urgency
  - Guidance located at FAR 6.302-2 and DFARS/PGI 206.302-2
    - Sec 862 of FY 2009 NDAA (P.L. 101-417 limits the length of contracts awarded pursuant to this authority (FAR rule in process)
  - Applies when the need for supplies or services is of such an unusual and compelling urgency that the government would be seriously injured unless the number of sources solicited is limited to those specified
    - Must solicit as many sources as practicable under the circumstances
  - Appropriate when an unusual urgency precludes full and open competition, and delay of the award would result in serious injury, financial or other, to the government
    - Initial response to crisis (e.g. Hurricane Katrina & 9/11)
  - Examples (DFARS 206.302-2(b))
    - Supplies, services or construction needed at once because of fire, flood, explosion, or other disaster
    - Essential equipment or repair needed at once to perform operational mission of an aircraft; or preclude impairment of launch capabilities or mission performance of missiles or missile support equipment
    - Construction needed at once to preserve a structure or its contents from damage

BACK

Exemptions (cont'd)

- Examples (DFARS 206.302-2(b) 10 USC 2304(c)(3)
  - Purchase requests citing an issue priority designator under DoDD 4410.6, Uniform Material Movement and Issue Priority System, of 4 or higher, or citing "Electronic Warfare QRC Priority"

- Key points for justification
  - Quantify the nature of the serious injury
    - Identify financial obligations of the government
      - Estimate the costs
      - Identify basis of the estimate
    - Identify potential personnel injuries or loss of life
      - Describe the conditions creating the situation
      - Why no other action than the planned acquisition could avert the situation
      - Explain the impaired defensive capability if the posture of the U.S. would be seriously jeopardized
    - Extent to which competition is limited
    - Demonstrate how competition was obtained, given the circumstances
    - If circumstances are similar to those cited under exception 1 (only one responsible source), detail these impediments

BACK

Exemptions (cont'd)

- 10 U.S.C. 2304(c)(3) Industrial Mobilization; Engineering, Developmental, or Research Capability; or Expert Services
  - Guidance located at FAR 6.302-3
  - Applies when it is necessary to award a contract to a particular source or sources in order to
    - Maintain a facility, producer, manufacturer, or other supplies in case of a national emergency or to achieve industrial mobilization or
    - Establish or maintain an essential engineering, research or development capability provided by an educational or non-profit organization or federally funded research and development center
  - Appropriate to authorize non-competitive renewal of contracts with Federally Funded Research and Development Centers (FFRDCs)
    - Use with development or production contracts would be unusual and requirement some form of national emergency
  - Examples: Train a selected supplier in the furnishing of critical supplies or services; prevent the loss of a supplier's ability and employees' skills; or maintain active engineering, research, or development work

Exemptions (cont'd)

- 10 U.S.C. 2304(c)(3) Industrial Mobilization; Engineering, Developmental, or Research Capability; or Expert Services (cont.)
  - Key points for justification
    - Demonstrate the need to maintain the capability possessed by the identified source(s)
    - Some form of market survey may be critical in demonstrating the uniqueness of this capability
    - FFRDC the need to maintain the capability is inherent in the source's designation as an FFRDC
    - Explain why no actions are planned or underway are planned to pursue future competition, if applicable

BACK

Exemptions (cont'd)

- 10 U.S.C. 2304(c)(4) International Agreement
  - Guidance located at FAR 6.302-4 and DFARS 6.302-4
  - Applies when purchase supplies or services under an international agreement, treaty or written direction of a foreign government or international organization
  - Examples
    - The U.S. is to be reimbursed by a foreign nation, and that country has specified in written direction that the supplies or services be procured from a particular firm
    - The planned contract is for supplies to be used, or services to be performed in the sovereign territory of another country and the terms of the treaty or agreement specify or limit the sources to be solicited
  - Justification
    - A J&A is not required if the Head of the Contracting Activity prepares a document that describes the terms of an agreement or treaty or the written directions, such as a Letter of Offer and acceptance, that have the effect of requiring the use of other than competitive procedures

BACK

Exemptions (cont'd)

- 10 U.S.C. 2304(c)(5) Authorized or Required by Statute
  - FAR 6.302-5 and DFARS 206.302-5 contains the guidance
  - Applies when a statute expressly authorizes that the acquisition be made through another agency, or from a specified source, or the agency's need is for a brand name or commercial item for authorized resale, the government may limit competition
  - A J&A is not required
    - Qualified non-profit agencies for the blind or severely handicapped (FAR 8.7)
    - Sole source awards under 8(a) (FAR 19.8)
    - Commercial items for authorized resale at a commissary or similar facility
    - Statute expressly requires the procurement to be made from a specified source
  - A J&A is required for:
    - Non-competitive awards to Federal Prison Industries (Unicor) (FAR 8.6)
    - Government Printing and Binding (FAR 8.8)
    - Sole source awards pursuant to the HUBZone or SDVOSB programs

BACK

Exemptions (cont'd)

- 10 U.S.C. 2304(c)(6) National Security
  - Guidance located at FAR 6.302-6
  - Applies to certain highly sensitive classified programs
  - Appropriate when disclosure of the Government's needs would compromise the national security, the government may limit competition. It shall not be used merely because the acquisition is classified, or merely because access to classified material will be necessary to submit an offer
  - Must request offers from as many potential sources as is practicable under the circumstances
  - Key points for justification –
    - Documentation is limited to the minimum essential information to establish the validity of the justification
    - The J&A is a classified document
    - Special handling procedures exist for processing the documentation to the approval authority

BACK

Exemptions (cont'd)

- 10 USC 2304(c)(7) Public Interest
  - Guidance located at FAR 6.302-7 and DFARS 6.302-7
  - Applies when it is determined the use of full and open competition is not in the public interest
  - Appropriate when none of the other authorities applies
    - Determination cannot be made on a class basis
  - Approval
    - CO prepares a determination to support the secretarial determination
    - For military departments – approval is Service Secretary
    - For defense agencies – approval is Secretary of Defense
    - Congress must be notified in writing 30 days prior to award of the contract
  - Key points for justification
    - Describe the reasons full and open competition is not in the public interest
    - Describe why no other authority is appropriate

BACK

Appendix D – Federal Supply Schedule

Note: a FAR rule is in process to implement Section 863 of the NDAA for FY 2009 that will impact these procedures

FSS - Orders < $100,000

- FAR 8.4 outlines procedures for providing for competition in the placement of orders under FSS contracts
- An ordering activity must justify its action and document the circumstances when restricting consideration for an order exceeding the micro-purchase threshold but not exceeding $100,000
- Circumstances that may justify restricting competition include:
  - Only one source is capable of providing supplies or services that are unique or highly specialized
  - A logical follow-on to an original order that provided competition (fair opportunity)
  - Urgent need and fair opportunity would result in unacceptable delays

BACK

FSS - Orders > $100,000

- A task or delivery order exceeding $100,000 is placed on a competitive basis only if the contracting officer provides a fair notice of the intent to make a purchase, including a description of the supplies or services and the basis for selection
  - As many schedule contractors as practicable, consistent with market research appropriate to the circumstances, to reasonably ensure that offers will be received from at least three contractors that can fullfill the requirements, and the contracting officer—
    - Receives offers from at least three contractors that can fullfill the requirements; or
    - Determines in writing that no additional contractors that can fill the requirements could be identified despite reasonable efforts
  - All contractors offering the required supply or services under the applicable FSS and affords all contractors responding to the notice a fair opportunity to submit an offer
  - Ensures all offers are fairly considered

- DFARS and PGI 208.405-70 apply when an order exceeds $100,000

BACK

Orders > $100,000 under FSS Contracts

- If competition (fair opportunity) is not provided, then a justification must be prepared and approved IAW FAR 8.405-6
  - The approval levels are the same as a FAR Part 6 exception to full and open competition
- An additional exception to fair opportunity is authorized when a statute expressly authorizes or requires purchase from a specified source

BACK

Appendix E – Basis for Single Award Determination

Single Award Task or Delivery Order Contract > $100 Million

The basis for a determination for a single award task or delivery order contract greater than $100 million include—

i. The task or delivery orders expected are so integrally related that only a single source can reasonably perform the work; or

ii. The contract provides only for firm-fixed price (see FAR 16.202) task or delivery orders for –

   A. Products for which unit prices are established in the contract; or

   B. Services for which prices are established in the contract; or

iii. Only one source is qualified and capable of performing the work at a reasonable price; or

iv. It is necessary in the public interest to award the contract to a single source due to exceptional circumstances

   – i.v. may not be delegated lower than the Senior Procurement Executive (as defined in DFARS 202) and requires that Congress be notified within 30 days after any determination

DPAP 23 May 2008 memo and FAR 2008-006 – Interim Rule 17 Sep 2008

BACK

Appendix F – Procedures for Orders under MACs

NOTE: A FAR rule is in process to implement Section 863 of the NDAA for FY 2009 that will impact these procedures

Multiple Award Contracts (MAC)

- Solicitation & contract must
  - Specify the period of performance, to include options;
  - Specify the total minimum and maximum quantities;
  - Include a statement of work, specifications, etc.;
  - State the procedures Government will use in issuing orders, to include selection criteria and selection procedures;
  - Identify ombudsman for all solicitations and contracts
  - Include a description of the activities authorized to issue orders;
  - Include authorization for placing oral orders, if applicable

BACK

Orders under FAR 16.5 - Multiple Award Contracts

- The contracting officer shall provide every awardee a fair opportunity to be considered for a task or delivery order exceeding $3,000, unless one the following statutory exceptions apply:
  - Urgent need and fair opportunity would result in unacceptable delays
  - Only one awardee capable of providing supplies or services that are unique or highly specialized
  - Sole-source is in the interest of economy and efficiency because it is a logical follow-on to an original order that provided fair opportunity
  - Necessary to satisfy a minimum guarantee

- The contracting officer shall document in the contract file the rationale for placement and price of each order, and identify the basis for using an exception to fair opportunity. If using the follow-on exception, describe the relationship between the initial order and the follow-on order

Orders > $100,000 under FAR 16.5

- See DFARS and PGI 216.5. Applies to orders placed by DoD and non-DoD agencies on our behalf. Does not apply to orders for architect-engineering services
- An task or delivery order exceeding $100,000 is placed on a competitive basis only if the contracting officer –
  - Provides a fair notice of the intent to make a purchase, including a description of the supplies or services and the basis for selection, to all contractors offering the required supplies or services under the multiple award contract; and
  - Affords all contractors responding to the notice a fair opportunity to submit an offer and have that offer fairly considered
- If competition (fair opportunity) is not provided, then an exception must be approved at the same level as a FAR Part 6 exception
- An additional exception to fair opportunity is authorized when an acquisition is authorized or required by statute

BACK

Checklist of FAR/DFARS 16.5 Fair Opportunity Requirements

FAR/DFARS 16.5 Fair Opportunity Requirements	Orders > $3,000 ≤ $100,000 FAR 16.505	Orders > $100,000 ≤ $5,000,000 DFARS 216.505-70	Orders > $5 million FAR 16.505
Each awardee of a multiple award contract must be given a fair opportunity to be considered for each order.	X	X	X
CO may exercise broad discretion in developing appropriate order placement procedures and keep submission requirements to a minimum. COs may use streamlined procedures, including oral presentations.	X	X	X
CO need not contact each of the multiple awardees before making the selection if the CO has information available to ensure that each awardee is provided a fair opportunity to be considered for each order.	X		
Provide a fair notice of the intent to make the purchase, to include a description of the supplies to be delivered or services to be performed and the basis for the selection to all contractors offering the supplies or services under the multiple award contract.		X	X
Afford all contractors responding to the notice a fair opportunity to submit an offer and have that offer fairly considered.		X	X
Provide all awardess a clear statement of the agency's requirements.			X
Provide a reasonable response period.			X
Disclose significant factors and subfactors, including cost or price, that the agency expects to consider in evaluating proposals, and their relative importance.			X
When award is based on best value, a written statement documenting the basis for award and relative importance of quality and price or cost factors.			X
Provide an opportunity for a post-award debriefing.			X

BACK

Checklist of FAR/DFARS 16.5 Fair Opportunity Requirements (Cont.)

FAR/DFARS 16.5 Fair Opportunity Requirements (Cont.)	Orders > $3,000 ≤ $100,000 FAR 16.505	Orders > $100,000 ≤ $5,000,000 DFARS 216.505-70	Orders > $5 million FAR 16.505
Exceptions to Fair Opportunity: - Urgent need and fair opportunity would result in unacceptable delays - Only one awardee is capable of providing the level of quality required because the supplies or services are unique or highly specialized - Sole source is in the interest of economy and efficiency because it is a logical followon to an order already issued under the contract where all awardees were provided a fair opportunity to compete - Necessary to satisfy a minimum guarantee	X	X	X
Additional Exception to Fair Opportunity - Authorized by statute		X	X
CO shall document the rationale for placing the order and the basis for any exception to fair opportunity.	X	X	X
CO shall obtain approval for an exception to fair opportunity at the levels specified in FAR 8.405-6 (same as J&A for a contract).		X	X

BACK

Appendix G – Federal Prison Industries

Purchases from Federal Prison Industries (FPI)

- In accordance with DFARS 208.602-70, when acquiring an item where FPI has a significant DoD market share, acquire the item using—
  - Competitive procedures (FAR 6.102, 19.5, or 13), or
  - The fair opportunity procedures in FAR 16.505, if placing an order under a multiple award contract
- Include FPI in the solicitation process;
- Consider a timely offer from FPI; and
- Make an award to the source offering the best value in accordance with FAR 8.602(a)(4)(ii)-(v)
- When FPI is determined to provide the best value, purchase the item in accordance with the procedures at http://www.unicor.gov

Current listing of products to be competed is in DPAP Memo of 3 June 2009

BACK

Purchases from Federal Prison Industries (FPI)

- If FPI does NOT have a significant DoD market share, follow the procedures at FAR 8.6 –
  - Conduct market research to determine whether the FPI item is comparable to supplies available from the private sector that best meet the Government's needs in terms of price, quality, and time of delivery.
  - Prepare a written determination addressing comparability that includes supporting rationale.
  - This is a unilateral determination made at the discretion of the contracting officer – arbitration provisions do not apply.
- If the FPI item is comparable, purchase the item from FPI following the procedures at http://www.unicor.gov, unless a waiver is obtained in accordance with FAR 8.604.
- If the FPI item is NOT comparable in one or more of the areas of price, quality, and time of delivery
  - Acquire the item using competitive or fair opportunity procedures in accordance with FAR 8.602 and include FPI in the solicitation process.

Appendix H – FPDS Reporting

FPDS reporting of Competition Information

- **Extent Competed** - For DoD, “Extent Competed” in FPDS includes the following options and is currently derived, based on the contracting officer’s entries in the FPDS Fields of “Solicitation Procedures”, “Reason Not Competed” and “Type of Set-Aside”.
- **Full and Open Competition** – FPDS derives this if a competitive method was used that did not exclude sources of any type
- **Full and Open Competition after Exclusion of Sources** – This is derived when sources are excluded before competition. NOTE: It is broader than FAR 6.2 in that it includes actions justified by a J&A that provided for limited competition
- **Not Available for Competition** – Derives this code when “Solicitation Procedures” is Single Source Solicited and the “Reason Not Competed” is Authorized by Statute, International Agreement, Utilities, or Authorized for Resale
- **Not Competed** – Derives this code for all other “Reasons Not Competed” where a single source is solicited

FPDS changes are expected in early FY 2010. Competed and Not Competed under SAP will be added when FPDS changes are implemented.

FPDS reporting of Competition Information

Solicitation Procedures

- **Single Source Solicited** –only one source is solicited, to include when placing an order against a multiple award contract that does not provide for fair opportunity, and when no solicitation procedure was used
- **Negotiated Proposal/Quote** – contract actions that use negotiated proposals (FAR 12, 13, or 15) and solicit more than one source
- **Sealed Bid** –contract actions using sealed bid procedures (FAR 14)
- **Two-Step** – report this code for contract actions that use a combination of sealed bids and negotiated proposals (FAR 6.102)
- **Architect-Engineer FAR 6.102** – action resulted from selection of sources for architect-engineer contracts pursuant to FAR 6.102(d)(1)
- **Basic Research** –action resulted from a competitive selection of research proposals pursuant to FAR 6.102(d)(2)
- **Alternative Sources** – action resulted from use of procedures that provided for full and open competition after exclusion of sources to establish or maintain alternate sources pursuant to FAR 6.202
- **Multiple Award Fair Opportunity** – orders placed against multiple award contracts (to include FSS) that provided for fair opportunity pursuant to DFARS 208.405-70 and FAR/DFARS 16.505/216.505-70

FPDS will automatically populate “Subject to Multiple Award Fair Opportunity” on orders under multiple award contracts when FPDS changes are implemented

BACK

FPDS reporting of Competition Information

- **Multiple or Single Award Indefinite Delivery Contract**
  - Required entry for Indefinite Delivery Contracts, BPAs, BOAs etc.
  - Determines whether fair opportunity is triggered for the placement of orders.
  - Select Multiple award when:
    1. The contract is one of several indefinite-delivery indefinite-quantity contracts awarded under a single solicitation in accordance with FAR 16.504(c);
    2. The BPA is one of several BPAs awarded against a Federal Supply Schedule in accordance with FAR 8.405-3(b); or
    3. Any other IDIQ contract entered into with two or more sources under the same solicitation when contracting officers are required to compare or compete their requirements among several vendors
  - Select Single award in all other cases

FPDS reporting of Competition Information

- **Fair Opportunity -** Required entry for orders against Multiple Award Contracts. Select from the below options:
  - **No Exception - Fair Opportunity Given** – when fair opportunity was given in accordance with DFARS 208.405-70 or DFARS 216.505-70
  - **Urgency** – when an action was justified pursuant to FAR 16.505(b)(2)(i)
  - **Only One Source – Other** – when an order was justified pursuant to FAR 16.505(b)(2)(ii)
  - **Follow-On Delivery Order Following Competitive Initial Order** – when an order was justified pursuant to FAR 16.505(b)(2)(iii)
  - **Minimum Guarantee** – when necessary to satisfy a minimum amount guaranteed to the contract per FAR 16.505(b)(2)(iv)
  - **Other Statutory Authority** – when statute expressly authorizes or requires that purchase be made from a specified source per DFARS 208.405-70(b)(1) or 216.505-70(b)(1)

FPDS Changes in Process – Expected in early FY 2010

- See IAE brief at: https://www.fpds.gov/
- DoD will begin reporting awards made using Simplified Acquisition Procedures (SAP), specifically:
  - Solicitation procedures - "Simplified Acquisition Procedures" will be added to the drop down options for DoD. It should be entered when a contract action uses simplified acquisition procedures
  - Reason not competed
    - Will be changed to "Other than Full & Open Competition"
    - "Not Competed Under SAP" will be a new drop down option for DoD. It should be entered when a contract action (to include FAR 13.5) uses SAP and was not competed.
- Extent Competed - two new drop down options will be added for DoD
  - "Competed under SAP" – for competitive actions (including FAR 13.5) that use SAP
  - "Not Competed under SAP" – for non-competitive actions (including FAR 13.5) that use SAP

BACK

FPDS CHANGES PENDING – EXPECTED IN EARLY FY 2010

FPDS Changes in Process – Expected in early FY 2010

- Type of Set-Aside - The Type of Set Aside field will be able to be reported when Simplified Acquisition Procedures are used
  - If Not Competed under SAP, then Type of Set Aside (if chosen) must be one of the Sole Source Set Asides
- Brand name description (FAR 6.302-1(c)) will be added to the drop down options for Other than Full & Open Competition
- Reporting of fair opportunity will change:
  - Solicitation procedures – FPDS will automatically populate “Subject to Multiple Award Fair Opportunity” whenever an order is placed under a multiple award contract
  - Statutory Exception to Fair Opportunity field will be retitled “Fair Opportunity/Limited Sources”

BACK

FPDS CHANGES PENDING – EXPECTED IN EARLY FY 2010

FPDS Changes in Process – Expected in early FY 2010

- FPDS Official Competition Report will change:
  - Report will capture the amount of contract actions not reporting the extent competed or whether fair opportunity was given (i.e., “null values”) and count them as not competed
  - Report will provide insight into the various reasons contract actions did not provide for full and open competition
    - “Not available for competition” will no longer be a category in the report, but the reasons an action are not available for competition will be reported (e.g., authorized by statue, brand name commercial item for authorized resale)
  - Report will provide insight into the extent that fair opportunity was given for orders under multiple award contracts
    - If fair opportunity was given, action will be considered competitive
    - If an exception to fair opportunity was approved, the action will be considered not competed

BACK

FPDS CHANGES PENDING – EXPECTED IN EARLY FY 2010

Appendix I – Market Research Resources

Resources – Market Research

- North American Industry Classification System (NAICS) Code
  - http://www.census.gov/eos/www/naics/
    - Use for: Find out how the government classifies products. Necessary for matching your invention to other data sources, making information available to potential buyers, describing your product to other advisers, experts, etc

- International Trade Administration Home Page
  - http://www.trade.gov/mas/
    - Use for: Excellent leads to industry pages on the web

- Government Industry Specialists Directory -- US Department of Commerce
  - http://www.cftech.com/BrainBank/GOVERNMENT/GovIndusSpecDir.html
    - Use for: Advice on industry analysis and trade promotion

BACK

Resources – Market Research

- Current Industrial Reports (CIR)
  - http://www.census.gov/cir/www/
    - Use for: "Market analysis, forecasting, and decisionmaking in the private sector." Reports on US industrial activity by sector and gives data on production and shipments of selected products
  - Details are from a federal government industry census conducted every five years

- Information Analysis Centers (IACs) -- US government sponsored
  - http://iac.dtic.mil/
    - Use for: Covers 13 technical areas of interest to US government agencies such as the Department of Defense and the Department of Energy. Topics include Advanced Materials, Modeling & Simulation, and Carbon Dioxide. Good level of detail for US R&D activities

Resources – Market Research

- MarketResearch.com
  - http://www.marketresearch.com/
    - Use for: Table of contents of thousands of market research reports
- Electronic Engineer Master
  - http://www2.eem.com
    - Use for: Tables of contents of market research reports. With a subscription you can combine this with a news service
- Thomas Net
  - http://www.thomasnet.com/
    - Use for: Tables of contents and summary descriptions of market research reports. The descriptions include a few quotable statistics for the industry or sector
- Online Yellow Pages
  - http://www.yellowpages.com
    - Use for: Simple search engine for finding businesses by category and location

Resources – Market Research

- Google Advanced Search
  - http://www.google.com
    - Use for: Locating similar products. Limit to the .com domain to find company sites. Use search terms for the problem as well as the product. Also search "buyers guide" and your product sector
- Thomas Register Online
  - http://www.thomasregister.com
    - Use for: Finding similar products and prices. Search by category; look for product specs and catalogs. Excellent for looking at a list of many companies in a sector and seeing which ones have online product catalogs. Site sign-up is required the first time you access the site
- US Patent and Trademark Office (USPTO)
  - http://www.uspto.gov/patft/
    - Use for: Alternate solutions to the same problem. Use the advanced search to specify fields within the patent. (spec/"material handling" finds the term in the description/specification field)

BACK